



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,073	10/11/2000	David Traynor	F0002-010001	5507

8791 7590 11/05/2004

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,073

Applicant(s)

TRAYNOR ET AL.

Examiner

Romain Jeanty

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 1988.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-15 and 32-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-15, 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Non-Final Office Action is in response to the amendment filed August 2, 2004. By the amendment, claims 1, 15 have been amended. Claims 5-7 and 16-31 have been cancelled. Claims 1-4, and 32-34 are pending in the application.

Objection

2. Applicant's amendment to claim 2 and the specification has overcome the objections.
3. Applicant's amendment to claim 10 has overcome the 35 U.S.C 112 second rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 8-15 are rejected under 35 U.S.C. 102(b) as being anticipated over Godin et al (U.S. Patent No. 5,890,138).

Art Unit: 3623

As per claim 1, Godin et al disclose a computer auction system comprising:

presenting via a first network a plurality of prices to a user for an item on a sales screen (a network for displaying item information to users) (col. 3, lines 20-29, lines 48-50).

Converting available supply “quantity” and sales activity level information about actions by other users for the item for which the price choices are presented in the step of presenting into a feedback indication, conveying “providing” the feedback information to the user on the sales screen (col. 2, lines 1-64, lines).

As per claim 2, Godin et al further disclose wherein the step of conveying includes displaying the feedback indication in the sales screen (col. 2, lines 1-8).

As per claim 3, Godin et al disclose wherein the step of conveying includes displaying the feedback indication in the form of one of a series of different pictorial icons (i.e. providing the product image of the product (col. 5, lines 41-51).

As per claim 4, further discloses from claim 1 wherein more factors selected from a group including quantities of the item sold, quantities of the item reserved at future price points, quantities of the item for which a reminder request has been entered, and the time duration incurred to sell the item (col. 3, lines 44-47).

As per claim 8, Godin et al further disclose wherein the converting is performed continuously in near real time (col. 3, lines 65-66).

As per claim 9, Godin et al further disclose wherein the presenting presents time-separated price choices from a falling-price schedule (col. 6, lines 50-56).

As per claim 10, Godin et al further disclose wherein the presenting a plurality of price choices displays a present price and at least one future price, and further including a displaying a

Art Unit: 3623

present purchase control button next to the present and future price purchase control button next to the future price (col. 3, lines 48-53).

As per claim 11, Godin et al disclose an item identification area responsive to a sales server via a network (server 22 having product information to be auctioned) (col. 3, lines 22-30), a plurality of price choices selection controls for the item identified in the item identification area and having outputs provided to the sales server via the network, and a feedback indication area responsive to the sales server via the network and operative to display a feedback indication derived from a quantity of the item available and sales of the item through other sales terminals (col. 2, lines 1-14; col. 3, lines 22-60).

As per claim 12, Godin et al disclose wherein the step of conveying includes displaying the feedback indication in the form of one of a series of different pictorial icons (i.e. providing the product image of the product (col. 5, lines 41-51).

As per claim 13, Godin et al further disclose wherein the converting is performed continuously in near real time (col. 3, lines 65-66).

As per claim 14, Godin et al further disclose wherein the presenting presents time-separated price choices from a falling-price schedule (col. 6, lines 50-56).

Claim 15 is a network sales system for performing the steps of network sales method of claim 1; therefore is rejected under the same rationale.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3623

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al (U.S. Patent No. 5,890,138) in view of Fisher et al (U.S. Patent No. 6,243,691).

As per claims 32-34, Godin et al disclose all of the limitations in claim 1 above, but fail to disclose adjusting one or more of the plurality of price choices. Fisher et al, in the same field of endeavor, discloses the idea of making price adjustments (col. 8, lines 13-38). It would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to have modified the disclosures of Godin et al to include a price adjustment as evidenced by Fisher et al with the motivation to allow large number of items to be continuously auctioned.

Response to Arguments

12. Applicant's arguments filed August 2, 2004 have been fully considered but they are not persuasive.

Remarks

13. Applicant asserted that Godin et al do not teach the claimed invention. Applicant further supported his assertion by arguing that Godin et al do not teach presenting via a first network a sales screen to a user showing a plurality of price choices for an item. In response, the examiner respectfully disagrees with applicant's argument because Godin et al do disclose a web server for communication product price information to a user. Thus, if the server communicates the product

Art Unit: 3623

prices information to the user, the user has the capability to make a choice in the choices for the product. Note col. 7 line 45 through col. 8 line 5.

14. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, combining Godin and Fisher would have been obvious to a person of ordinary skill with the motivation to allow large number of the items to be continuously auctioned.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 3623

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington VA, Seventh floor receptionist.

RJ

November 1, 2004

Romain Jeanty
Primary Examiner
Art Unit 3623